

January 11, 2017

VIA ECF and FEDERAL EXPRESS

Honorable Lorna G. Schofield
United States District Judge
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Courtroom 1106
New York, NY 10007

Re: *Performance Pricing Holdings, LLC v. Google Inc.*
Case No. 1:15-cv-09712-LGS

Dear Judge Schofield,

Pursuant to the Court's April 12, 2016 Order (Doc. No. 44) and Memo Endorsement of September 29, 2016 (Doc. No. 48), the parties file this joint letter. As previously advised in Plaintiff's November 14, 2016 letter and the parties' September 28, 2016 letter, the Patent Trial and Appeal Board issued decisions on September 21 to institute covered business method patent review under 37 C.F.R. § 42.208 in CBM2016-00049 and CBM2016-00050 for asserted U.S. Patent Nos. 7,089,195 ("the '195 patent") and 8,799,059 ("The '059 patent"). The Board instituted review for all claims asserted in this litigation.

Plaintiff submitted their full responses to Google's petitions for covered business method patent review on December 21, 2016. Pursuant to 37 C.F.R. § 42.300, the Board is to issue its final decisions no later than September 21, 2017.¹

Plaintiff's Position: The Board's institution decisions are not dispositive, and the Board has not made a final determination as to the validity of any patent or claim. Plaintiff does not anticipate moving to lift the stay at this time. Therefore, Plaintiff does not believe that any case

¹ This deadline can be extended by up to six months for good cause by the Chief Administrative Patent Judge.

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management deadlines need to be set at this time. Plaintiff may, and reserves the right to, move to the lift the stay should future developments in the proceedings so warrant, including, but not limited to, after a final decision from the Board confirming the patentability of one or more claims of the '195 or '059 patents.

Google's Position: Google believes that the stay should remain in effect. Therefore, the parties agree that there is no need to set case management deadlines at this time.

Respectfully submitted,

/s/ Patrick D. Curran (with consent)
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cc: All Counsel of Record via CM/ECF